



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 20-262, FD1

RESOLUTION

ESTABLISHING A CITY COUNCIL POLICY RELATING TO CERTAIN FINANCIAL INCENTIVES REQUESTED FOR PROJECTS DEVELOPED UNDER SECTION 201H-38 OF THE HAWAII REVISED STATUTES.

WHEREAS, Chapter 201H of the Hawaii Revised Statutes ("HRS") establishes the Hawaii Housing Finance and Development Corporation ("HHFDC") to serve as the State of Hawaii's housing finance and development agency, and, among other things, authorizes the HHFDC to, on its own behalf or with an eligible developer, develop fee simple or leasehold property, construct dwelling units thereon, and sell, lease, or rent the dwelling units at the lowest possible price to qualified residents, nonprofit organizations, or governmental agencies; and

WHEREAS, pursuant to HRS Section 201H-38, the HHFDC may develop affordable housing projects that are exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon; provided that the council of the county in which the project is situated approves the project, with or without modifications ("201H projects"); and

WHEREAS, HRS Section 46-15.1 grants to the counties the same housing powers and authority as those granted to the HHFDC for purposes of developing, constructing, and providing low- and moderate-income housing pursuant to HRS Section 201H-38; and

WHEREAS, pursuant to its authority under HRS Sections 201H-38 and 46-15.1, the City Council ("Council") has approved valuable financial incentives for 201H projects on Oahu, including but not limited to the waiver or deferral of plan review fees, building permit fees, grading and grubbing permit fees, wastewater system facility charges, water system facility fees, and park dedication requirements; and

WHEREAS, the Council has also granted 201H projects significant flexibility relating to Land Use Ordinance ("LUO") development standards, such as standards relating to maximum height and density, required yards, height setbacks, lot coverage, off-street parking and loading requirements, bicycle parking requirements, and landscaping requirements; and LUO permitted uses, such as allowing the development of multifamily dwellings in zoning districts where multifamily dwellings are not otherwise permitted; and



RESOLUTION

WHEREAS, Ordinance 18-1, effective as of February 15, 2018, provides financial incentives to help stimulate affordable housing production, including rental housing that satisfies the eligibility requirements for an exemption from State of Hawaii general excise taxes under HRS 201H-36(a)(5), and to offset impacts of the affordable housing requirements set forth in Chapter 38 of the Revised Ordinances of Honolulu 1990 ("ROH"); and

WHEREAS, specifically, Ordinance 18-1 amends various ROH sections (the "Amendments") to: (1) provide real property tax exemptions that apply exclusively to affordable rental dwelling units during the period in which the rental unit is subject to an affordable housing agreement; (2) provide that projects that contain affordable units are exempt for real property tax purposes from incremental increases in the valuation of the property during the project's construction period for three years or until construction is completed, whichever occurs first; (3) waive the wastewater system facility charges for affordable dwelling units; (4) waive plan review and building permit fees for affordable dwelling units; and (5) waive park dedication requirements for affordable dwelling units (collectively, the "Financial Incentives"); and

WHEREAS, the Amendments were not intended to apply for the long-term due to potential negative impacts on the City's real property tax collections, wastewater system facilities, and parks; the Financial Incentives will therefore be repealed on June 30, 2027, except that the real property tax exemption for affordable rental units will continue for the entire required affordability period; and

WHEREAS, the Amendments were subsequently amended by Ordinance 19-8 to provide that affordable rental housing projects developed pursuant to a pilot program established by ROH Chapter 42, are eligible to receive Financial Incentives for affordable units rented to households earning 100 percent and below of the area median income ("AMI") for Honolulu; these incentives will be repealed on May 21, 2024; and

WHEREAS, the Amendments were further amended by Ordinance 20-11 to provide that for-sale projects developed pursuant to a pilot program where at least 75 percent of the dwelling units are sold to households earning 120 percent and below of the AMI, are eligible to receive waivers from wastewater system facility charges, plan review fees, and building permit fees for the percentage of affordable dwelling units sold to households earning 100 percent and below of the AMI; these incentives will be repealed on May 21, 2021; and



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 20-262, FD1

RESOLUTION

WHEREAS, prior to the enactment of Ordinance 18-1, developers of 201H projects generally requested (and the Council generally approved) deferrals instead of waivers from payment of wastewater system facility charges, because these charges are needed to fund the development, improvement, and maintenance of the City's wastewater system infrastructure; and

WHEREAS, prior to the enactment of Ordinance 18-1, careful consideration was given to requests by 201H project developers to waive park dedication requirements, including the availability, condition, and neighborhood use of nearby parks, because these requirements are intended to support the outdoor recreational needs of all members of the public; and

WHEREAS, after the enactment of Ordinance 18-1, 201H project developers have been regularly requesting waivers of wastewater system facility charges and park dedication requirements, because these waivers are available for affordable dwelling units provided pursuant to ROH Chapter 38; and

WHEREAS, while Ordinance 18-1 expressly provides that the waivers of wastewater system facility charges and park dedication requirements only apply to the portion of wastewater charges and park requirements attributed to affordable dwelling units, no similar guidelines apply to 201H projects; and

WHEREAS, while the Financial Incentives will be repealed on June 30, 2027, no conclusion date is contemplated for waivers of wastewater system facility charges and park dedication requirements for 201H projects; and

WHEREAS, the Council believes that waivers of wastewater system facility charges and park dedication requirements should equally apply to affordable dwelling units provided pursuant to HRS Chapter 201H and ROH Chapter 38; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Council hereby establishes the following policies relating to affordable housing projects developed pursuant to HRS Chapter 201H:

1. Wastewater system facility charges, as set forth in Appendix 14D of ROH Chapter 14:
 - (a) May only be waived for that portion of the charges attributed to affordable dwelling units in the project:
 - (i) Offered for sale to households earning 120 percent and below of the AMI; and



RESOLUTION

- (ii) Offered for rent to households earning 80 percent and below of the AMI; and
- (b) May be deferred until the issuance of a certificate of occupancy for that portion of the charges attributed to:
 - (i) Dwelling units in the project offered for sale to households earning in excess of 120 percent of the AMI;
 - (ii) Dwelling units in the project offered for rent to households earning in excess of 80 percent of the AMI; and
 - (iii) Commercial uses and other nonresidential uses in the project; and
- 2. Park dedication requirements, as set forth in ROH Section 22-7.3, may be waived only for that portion of the requirements attributed to affordable dwelling units in the project:
 - (a) Offered for sale to households earning 120 percent and below of the AMI; and
 - (b) Offered for rent to households earning 80 percent and below of the AMI.

Park dedication requirements attributed to all other dwelling units in the project may not be waived.

BE IT FURTHER RESOLVED that the policies set forth above will remain in effect until the first to occur of June 30, 2027, or the repeal of the financial incentives established by Ordinance 18-1, as the same may be amended from time to time; and

BE IT FURTHER RESOLVED that this resolution takes effect upon its approval and is applicable only to 201H projects submitted to the Council after the effective date of this resolution; and



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 20-262, FD1

RESOLUTION

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Mayor, the Managing Director, the Director of Planning and Permitting, the Chair of the Board of Directors of the Hawaii Housing Finance and Development Corporation, and the Executive Director of the Hawaii Housing Finance and Development Corporation.

INTRODUCED BY:

Brandon Elefante

DATE OF INTRODUCTION:

October 13, 2020
Honolulu, Hawaii

Councilmembers

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 20-262, FD1

Introduced: 10/13/20 By: BRANDON ELEFANTE

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION ESTABLISHING A CITY COUNCIL POLICY RELATING TO CERTAIN FINANCIAL INCENTIVES
REQUESTED FOR PROJECTS DEVELOPED UNDER SECTION 201H-38 OF THE HAWAII REVISED STATUTES.

Voting Legend: * = Aye w/Reservations

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| 10/20/20 | EXECUTIVE MATTERS AND LEGAL AFFAIRS | CR-246 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION. 7 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, TEXEIRA, WATERS. 2 EXCUSED: PINE, TSUNEYOSHI. |
| 11/05/20 | COUNCIL | AMENDED TO HAND-CARRIED FD1 (OCS2020-1134/11/5/2020 2:23 PM). 9 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TEXEIRA, TSUNEYOSHI, WATERS. CR-246 AND RESOLUTION 20-262, FD1 WERE ADOPTED. 9 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TEXEIRA, TSUNEYOSHI, WATERS. |

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


GLEN I. TAKAHASHI, CITY CLERK


ANN KOBAYASHI, CHAIR AND PRESIDING OFFICER